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7 Proposed Attorneys for Debtor

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9 **UNITED STATES BANKRUPTCY COURT**

10 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

11 In re:

12 MARKET 52, INC.

13 Debtor.

14 Case No. 12-10694-B-11

15 Chapter 11

16 DC No. KDG - 4

17 Date: March 1, 2012

18 Time: 9:00 a.m.

19 Place: Bankruptcy Court, Dept B
 20 2500 Tulare Street, 5th Floor
 Bakersfield, California

21 Judge: Honorable W. Richard Lee

22 **DECLARATION OF JERALD D. DOWNS IN SUPPORT OF DEBTOR'S MOTION
 FOR ORDER, PURSUANT TO 11 U.S.C. § 105(a), ESTABLISHING PROCEDURES
 FOR TREATMENT OF CLAIMS UNDER PERISHABLE AGRICULTURAL
 COMMODITIES ACT**

23 I, JERALD D. DOWNS, declare:

24 1. MARKET 52 ("Debtor") filed a Voluntary Petition under Chapter 11 of the
 25 United States Bankruptcy Code on January 27, 2012. I am an officer of the Debtor and have
 26 personal knowledge of the information set forth in this Declaration. I could and would testify
 27 thereto if called as a witness.

1 2. Debtor is authorized to continue to operate its business and manage its property
2 as a debtor in possession.

3 3. Debtor is a corporation with a principal place of business in Kings County,
4 California. Debtor's primary business is the purchase, processing, and re-sale of fresh produce,
5 including grapes, blueberries, and other fruit.

6 4. Debtor is a licensed dealer under the Perishable Agricultural Commodities Act
7 of 1930, as amended ("PACA"). Debtor's primary source of income is generated by the sale of
8 produce which is subject to PACA claims held by creditors.

9 5. Since 2007, Debtor has tried to build a year-round (52-week) supply chain for
10 berries with supplies coming from Chile, Argentina, and Mexico, in addition to domestic
11 sourcing in California and the Pacific Northwest. During its years of operations, Debtor
12 supplied major food retailers, including Costco, Safeway, Raley's, Kroger, Trader Joes, and
13 others.

14 6. As Debtor grew to accommodate the demands of its customers, advance its
15 model as a supplier of year-round fresh produce and berries, and develop a cold storage
16 business, Debtor experienced severe working capital shortfalls. Debtor sustained a substantial
17 loss in 2010 and thereafter turned to factoring its receivables to meet its operating needs.

18 7. By the end of 2011, it was clear that Debtor had insufficient capital to meet
19 operating needs and repay vendors, growers, and other creditors. At that time, Debtor started
20 aggressive efforts to market and sell its business to large national and international produce
21 concerns. At the same time, several of Debtor's creditors, including growers who had sold
22 berry commodities to Debtor and were owed substantial sums of money, began pursuing legal
23 action. Debtor attempted to and did reach payment arrangements with several of these
24 creditors, but in the end Debtor could not come up with sufficient funds to make the payments
25 or even propose payments.

26 8. It also became clear to Debtor that a sale of Debtor's assets would be more
27 beneficial to its creditors if it took place within the context of a Chapter 11 case and
28 accomplished pursuant to 11 U.S.C. Section 363. To that end, Debtor engaged a consultant to

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1 assist it with the marketing and sale of the company and even prior to the bankruptcy case, was
2 in dialog with several potential interested parties.

3 9. I believe that, in order to consummate a sale of Debtor's business under 363, it
4 will need to determine and disclose the number and amount of its creditors who hold Valid
5 PACA Claims, as defined in the Motion.

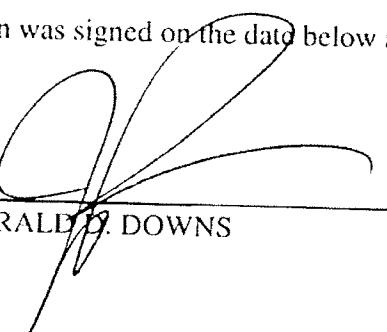
6 10. I believe that Debtor's liabilities total approximately \$9.7 million. Of this
7 amount, approximately 40 creditors, holding claims totaling approximately \$4.1 million, are
8 growers who supplied Debtor with fresh produce. I believe that some of these creditors may
9 have preserved their rights to the PACA Trust.

10 11. As of the petition date, ten creditors had filed administrative actions against
11 Debtor before the U.S.D.A. Three creditors had filed civil actions to establish their claim to the
12 PACA trust.

13 12. Debtor wants to establish a procedure to quickly and efficiently determine which
14 creditors have preserved their rights to the PACA trust's assets. I believe that such a procedure
15 would save these creditors, and the estate, from the expense and delay involved in establishing
16 each creditor's entitlement to the PACA trust separately through stay relief motions and
17 adversary proceedings.

18 I declare under penalty of perjury under the laws of the United States that the foregoing
19 statements are true and correct. This declaration was signed on the date below at

20 Kingsbury CA
21 Dated: Feb 15, 2012


22 JERALDO DOWNS
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